

**Minutes of Land Use, Parks and Environment (LUPE) Committee**  
**Tuesday, June 17, 2014**

Chair Kolb called the meeting to order at 8:30 a.m. and led the committee in the Pledge of Allegiance.

**Committee Present:** Supervisors Walter Kolb, Jim Batzko, Jennifer Grant, Keith Hammitt, Eric Highum, Pauline Jaske, and Tom Schellinger.

**Also Present:** Legislative Policy Advisor Sarah Spaeth, Administrative Specialist Karen Phillips, Planning and Zoning Manager Jason Fruth and Land Information Systems Manager Don Dittmar.

**Executive Committee Report of June 16, 2014**

Kolb summarized the items discussed at the June 16, 2014 Executive Committee meeting:

- Presentation and discussion of the Waukesha County Historical Museum report on financial viability and 2013 financial statements
- Presentation on cyber security
- Approval of numerous appointments
- Committee reports

Hammitt arrived at 8:34 a.m.

**Future Meeting Date**

- July 15, 2014

**Approve Minutes of May 20, 2014**

MOTION: Schellinger moved, second by Jaske to approve the minutes of May 20, 2014. Motion carried 7-0.

**Legislative Update**

Spaeth is monitoring legislative study committees which begin meeting next week.

**Discuss and Consider Ordinance 169-O-022: Approve Land Use Permit To Whispering Ridge Owners Association, Inc. To Construct, Operate, Repair And Maintain A Trail Connection To The Bugline Trail**

Grimm discussed this ordinance that would allow the Whispering Ridge Subdivision in the Village of Lannon to construct, operate, repair and maintain a trail connection to the Bugline Trail through the terms of a land use permit. He further reviewed the details of the plan.

Schellinger asked if this is a standard agreement. Grimm stated yes, it has been used before for this type of trail connection.

MOTION: Jaske moved, second by Batzko to approve Ordinance 169-O-022. Motion carried 7-0.

**Discuss and Consider Ordinance 169-O-023: Amend The Text Of The Town Of Delafield Zoning Code To Create Section 17.05 5. AQ. And Repeal Section 17.06 4.H.3.a. Of The Town Of Delafield Zoning Code To Amend Solar Energy Systems (ZT-1783)**

Fruth discussed this ordinance which amends the Town of Delafield Zoning Code to bring it into compliance with the statutory requirements for the regulation of solar energy systems. The required permitting would change from Special Use to Conditional Use permits.

State Statutes limit the range of issues that can be considered in reviewing, approving or denying these types of projects. Property values and physical attractiveness are not to be considered. The Town is incorporating language stating that any imposed restrictions cannot significantly increase the cost of the system or decrease efficiency and must allow for an alternative system of comparable cost or efficiency, per State Statute. Planning and Zoning staff has no concerns with this change and recommends approval.

Schellinger asked why Pat Haukohl voted against the proposed text amendment at the Park and Planning Commission. Fruth stated Haukohl does not support the Statute change and feels this change takes away local control. Further discussion on the issue ensued as the committee members debated on approving the ordinance because of its restrictiveness to local branches of government.

Grant asked if this change is being proposed because of State or Federal requirements. Fruth stated there are both State and Federal mandates – the Town is following the law.

Hammitt asked whether other towns would be implementing a similar change. Fruth added that other towns may likely deal with this issue in the future; however, perhaps other towns do not have the same restrictive language so there would be no need to strike language in order to be compliant with the law. He further advised that the Town of Delafield's attorney has been tracking changes in the law and has recommended the proposed text amendment, possibly to prevent any lawsuits. Kolb surmised that it would be a disservice to the Town of Delafield to vote against this ordinance.

MOTION: Batzko moved, second Schellinger to approve Ordinance 169-O-023. Motion carried 7-0.

**Discuss and Consider Ordinance 169-O-024: Amend The Waukesha County Shoreland And Floodland Protection Ordinance To Create Section 4(g)(22)(E) Which Provides For An Urban Form Planned Unit Development Conditional Use Option (SZ-1459I)**

Fruth discussed this ordinance which amends the County Shoreland and Floodland Protection Ordinance to expand the Conditional Use section of the ordinance to offer a Planned Unit Development (PUD) option within urban settings.

Fruth reviewed the specifics for the proposed Urban Form PUD option that would allow for additional mixed use development or single use projects that provide high quality site design and appropriate urban amenities. The County Development Plan recommends mixed use development and high density residential development in areas that are served by municipal services and in close proximity to employment centers. The proposed amendments will provide a new mechanism for consideration of development projects containing these elements within such settings. Planning and Zoning division staff recommend that the proposed text amendments to the Waukesha County Shoreland and Floodland Protection Ordinance be approved.

MOTION: Hammitt moved, second by Jaske to approve Ordinance 169-O-024. Motion carried 7-0.

**Discuss and Consider Ordinance 169-O-025: Amend The Waukesha County Shoreland And Floodland Protection Ordinance District Zoning Map Of The Town Of Oconomowoc By Conditionally Rezoning Certain Lands Located In Part Of The E ½ Of Section 36, T8N, R17E, Town Of Oconomowoc, Waukesha County, Wisconsin, From The C-1 Conservancy District To The R-3 Residential District (SZ-1769)**

Fruth discussed this ordinance which authorizes a zoning map amendment under the Shoreland and Floodland Protection Ordinance to allow wetland fill for driveway purposes for an existing sub-standard lot of record within the Town of Oconomowoc. The petitioner is requesting to rezone a portion the property from the C-1 Conservancy District to the R-3 Residential District.

Fruth provided the background and history of the subject property. The petitioner is requesting the rezone to fill the east portion of a small wetland on the property which will be used for the construction of a driveway to access a future potential building site on the lake side of the property. The owner investigated other alternatives for the driveway, such as, pursuing easements with the east and west property owners (no permanent easement could be acquired) or a bridge crossing of the wetland (not viable due to the expense). The wetland is isolated and low quality. The Wisconsin Department of Natural Resources and the Army Corps of Engineers have reviewed and approved the proposal for the fill due to the fact that it is minimized to the greatest extent possible. The proposed fill area of approximately 1,250 square feet would be filled with 250 cubic yards of material. The remaining wetland area would be restored by reseeded with a wet prairie mix, thereby improving its quality. Fruth stated Planning and Zoning staff recommend approval of this rezone request, subject to the conditions, including a required Conditional Use permit, limited area of fill, and a three-year window to complete the project or it would revert back to the C-1 Conservancy District.

Hammitt asked about the size of the parcel. Fruth stated it is about 1/3 of an acre. It is a difficult site that has been available for three years with no interested buyers.

MOTION: Hammitt moved, second by Grant to approve Ordinance 169-O-025. Motion carried 7-0.

**Discuss and Consider Ordinance 169-O-026: Amend The Text Of The Waukesha County Shoreland And Floodland Protection Ordinance To Create A DSO Delafield Shoreland Overlay District (SZ-1787)**

Ordinance 169-O-026 amends the text of the Waukesha County Shoreland and Floodland Protection Ordinance by creating Section 37, DSO Delafield Shoreland Overlay District that will be applicable within 1,000 feet of Pewaukee Lake in the Town of Delafield.

Fruth discussed related Ordinances 169-O-026 and 169-O-027 relative to the creation of a Delafield Shoreland Overlay District. Fruth explained background information which led to the two ordinances: A recent court case pertaining to the Town of Eagle has had implications on how Town and County shoreland regulations relate to each other. The court's decision clarified that counties have shoreland zoning responsibilities and town shoreland zoning provisions cannot be enforced unless they predate the effective date of the a county's shoreland ordinance (1970 in Waukesha County). The Town of Eagle lost its appeal of the court's decision and the Supreme Court has indicated they would not hear the case.

Relative to the court's decision, the Town of Delafield's attorney and planner indicated their 150-foot setback requirement, in effect for about 20 years, is more restrictive than the County's 75-foot setback requirement and they would be unable to continue to enforce it. Following discussion between Parks and Land Use Director Shaver, Fruth and corporation counsel, it was decided to advance an ordinance that would create a Delafield Shoreland Overlay District in order to administer the same 150-foot shoreland setback provision, as lesser setback requirements for new constructions would possibly impact lake views and negatively affect property values for existing lake property owners.

Fruth pointed out a typographical error in line 239 of Ordinance 168-O-026 that should be corrected as follows (deletions are crossed out, additions underlined): Section 37 (~~b~~) (c) or 37 (~~e~~) (d). The amendment will be made at the County Board meeting on June 24, 2014.

MOTION: Schellinger moved, second by Batzko to approve Ordinance 169-O-026. Motion carried 7-0.

**Discuss and Consider Ordinance 169-O-027: Adopt A Revised District Zoning Map Of The Waukesha County Shoreland And Floodland Protection Ordinance For The Town Of Delafield To Incorporate The DSO Delafield Shoreland Overlay District (SZ-1787A)**

Ordinance 169-O-027 adopts the revised district zoning map of the Waukesha County Shoreland and Floodland Protection Ordinance for the Town of Delafield to incorporate the new DSO Delafield Shoreland Overlay District boundaries that affect lands within 1,000 feet of Pewaukee Lake within the Town of Delafield.

MOTION: Schellinger moved, second by Hammitt to approve Ordinance 169-O-027. Motion carried 7-0.

**Land Information System Overview**

Dittmar provided a high level overview of the Waukesha County Land Information System (LIS) Division, including the Geographic Information System (GIS) mapping website. The Waukesha County GIS Internet mapping site was developed to provide County departments, municipalities, and the public with geographic information for use in land use planning, zoning, and other activities. Dittmar demonstrated the extensive amount of mapping data available through the GIS.

Dittmar discussed LIS Division's future goals, which include moving beyond static maps to a map-based information portal, ongoing development of specialized applications (apps), and development of more data sharing and hosting opportunities.

**Discuss and Consider 169-A-004: Appointment of Pamela Meyer to the Eagle Springs, Pretty Lake, and School Section Lake Management Districts**

MOTION: Schellinger moved, second by Hammitt to approve Appointment 169-A-004. Motion carried 7-0.

MOTION: Jaske moved, second by Batzko to adjourn the meeting at 10:20 a.m. Motion carried 7-0.

Respectfully submitted,

Jennifer Grant  
Secretary